

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

MARLON OMAR CALDERON RIVAS,

Petitioner,

vs.

Respondent.

**8:23CV106**

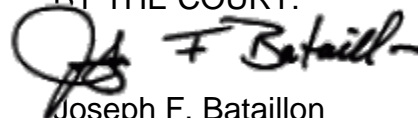
**MEMORANDUM AND ORDER**

On April 7, 2023, the Court advised Petitioner that it would construe his letter, [Filing No. 1](#), as a petition for writ of habeas corpus under [28 U.S.C. § 2254](#) if he did not voluntarily withdraw his petition within 30 days and directed Petitioner to file an amended petition for writ of habeas corpus if he decided to allow this action to proceed as one brought pursuant to [28 U.S.C. § 2254](#). [Filing No. 3](#). On April 27, 2023, the Court received correspondence from Petitioner, in which the Petitioner states that he did not intend to file a petition under [28 U.S.C. § 2254](#) and which the Court construes as a motion to withdraw his petition. [Filing No. 4](#). Accordingly,

IT IS ORDERED that: Petitioner's Response, construed as a motion to withdraw his petition, [Filing No. 4](#), is granted, and this matter is dismissed without prejudice. No certificate of appealability has been or will be issued. Judgment shall be entered by separate document.

Dated this 22nd day of August, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J. F. Bataillon", written over a horizontal line.

Joseph F. Bataillon  
Senior United States District Judge